

to empower such officers and employees of the Department of Commerce as he may designate, or such officers and employees of other departments as may be detailed for the purpose, to make arrests and seize vessels and sponges, and upon his request the Secretary of the Treasury may employ the vessels of the Coast Guard or the employees of the Customs Service to that end.

(Aug. 15, 1914, ch. 253, § 5, 38 Stat. 692; Jan. 28, 1915, ch. 20, § 1, 38 Stat. 800; 1939 Reorg. Plan No. II, § 4(e), eff. July 1, 1939, 4 F.R. 2731, 53 Stat. 1431; Aug. 4, 1949, ch. 393, §§ 1, 20, 63 Stat. 495, 561; 1970 Reorg. Plan No. 4, eff. Oct. 3, 1970, 35 F.R. 15627, 84 Stat. 2090.)

#### TRANSFER OF FUNCTIONS

For transfer of authorities, functions, personnel, and assets of the Coast Guard, including the authorities and functions of the Secretary of Transportation relating thereto, to the Department of Homeland Security, and for treatment of related references, see sections 468(b), 551(d), 552(d), and 557 of Title 6, Domestic Security, and the Department of Homeland Security Reorganization Plan of November 25, 2002, as modified, set out as a note under section 542 of Title 6.

For transfer of functions, personnel, assets, and liabilities of the United States Customs Service of the Department of the Treasury, including functions of the Secretary of the Treasury relating thereto, to the Secretary of Homeland Security, and for treatment of related references, see sections 203(1), 551(d), 552(d), and 557 of Title 6, Domestic Security, and the Department of Homeland Security Reorganization Plan of November 25, 2002, as modified, set out as a note under section 542 of Title 6.

“Secretary of Commerce” and “Department of Commerce” substituted in text for “Secretary of the Interior” and “Department of the Interior” in view of: creation of National Oceanic and Atmospheric Administration in Department of Commerce and Office of Administrator of such Administration; abolition of Bureau of Commercial Fisheries in Department of the Interior and Office of Director of such Bureau; transfers of functions, including functions formerly vested by law in Secretary of the Interior or Department of the Interior which were administered through Bureau of Commercial Fisheries or were primarily related to such Bureau, exclusive of certain enumerated functions with respect to Great Lakes fishery research, Missouri River Reservoir research, Gulf Breeze Biological Laboratory, and Trans-Alaska pipeline investigations; and transfer of marine sport fish program of Bureau of Sport Fisheries and Wildlife by Reorg. Plan No. 4 of 1970, eff. Oct. 3, 1970, 35 F.R. 15627, 84 Stat. 2090, set out in the Appendix to Title 5, Government Organization and Employees.

For transfer of functions of other officers, employees, and agencies of Department of the Interior, with certain exceptions, to Secretary of the Interior, with power to delegate, see Reorg. Plan No. 3 of 1950, §§ 1, 2, eff. May 24, 1950, 15 F.R. 3174, 64 Stat. 1262, set out in the Appendix to Title 5.

“Coast Guard” substituted in text for “Revenue Cutter Service” on authority of act Jan. 28, 1915, which combined Revenue Cutter Service and Life-Saving Service to form Coast Guard. That act was repealed by section 20 of act Aug. 4, 1949, section 1 of which reestablished Coast Guard by enacting Title 14, Coast Guard.

Coast Guard transferred to Department of Transportation and all functions, powers, and duties, relating to Coast Guard, of Secretary of the Treasury and of other offices and officers of Department of the Treasury transferred to Secretary of Transportation by section 6(b)(1) of Pub. L. 89-670, Oct. 15, 1966, 80 Stat. 938. See section 108 of Title 49, Transportation.

Functions of all officers of Department of the Treasury, and functions of all agencies and employees of

such Department, transferred, with certain exceptions, to Secretary of the Treasury, with power vested in him to authorize their performance or performance of any of his functions, by any of such officers, agencies, and employees, by Reorg. Plan No. 26 of 1950, §§ 1, 2, eff. July 31, 1950, 15 F.R. 4935, 64 Stat. 1280, 1281, set out in the Appendix to Title 5. Customs Service, referred to in this section, was a service under Department of the Treasury, and Coast Guard, also referred to in this section, was generally a service under such Department, but such Plan excepted, from transfer, functions of Coast Guard, and of Commandant thereof, when Coast Guard was operating as a part of the Navy under sections 1 and 3 of Title 14, Coast Guard.

Reorg. Plan No. III of 1940, § 3, eff. June 30, 1940, 5 F.R. 2108, 54 Stat. 1232, set out in the Appendix to Title 5, Government Organization and Employees, consolidated Bureau of Fisheries and Bureau of Biological Survey with their respective functions into one agency in Department of the Interior to be known as Fish and Wildlife Service, and provided that functions of the consolidated agency shall be administered under direction and supervision of Secretary of the Interior.

Reorg. Plan No. II of 1930, set out in the Appendix to Title 5, transferred Bureau of Fisheries in Department of Commerce and its functions to Department of the Interior, to be administered under direction and supervision of Secretary of the Interior.

## CHAPTER 12—FEDERAL REGULATION AND DEVELOPMENT OF POWER

### SUBCHAPTER I—REGULATION OF THE DEVELOPMENT OF WATER POWER AND RESOURCES

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|--------------|--|
| Sec.         |  |
| 791.         | Repealed.  |
| 791a.        | Short title.   |
| 792.         | Federal Power Commission; creation; number; appointment; term; qualifications; vacancies; quorum; chairman; salary; place of holding sessions.   |
| 793.         | Appointment of officers and employees of Commission; duties, and salaries; detail of officers and employees from other departments; expenditures authorized.   |
| 793a to 795. | Repealed or Omitted.   |
| 796.         | Definitions.   |
| 797.         | General powers of Commission. <ul style="list-style-type: none"> <li>(a) Investigations and data.</li> <li>(b) Statements as to investment of licenses in projects; access to projects, maps, etc.</li> <li>(c) Cooperation with executive departments; information and aid furnished Commission.</li> <li>(d) Publication of information, etc.; reports to Congress.</li> <li>(e) Issue of licenses for construction, etc., of dams, conduits, reservoirs, etc.</li> <li>(f) Preliminary permits; notice of application.</li> <li>(g) Investigation of occupancy for developing power; orders.</li> </ul> |
| 797a.        | Congressional authorization for permits, licenses, leases, or authorizations for dams, conduits, reservoirs, etc., within national parks or monuments.   |
| 797b.        | Duty to keep Congress fully and currently informed.  |
| 797c.        | Dams in National Park System units.  |
| 797d.        | Third party contracting by FERC. <ul style="list-style-type: none"> <li>(a) Environmental impact statements.</li> <li>(b) Environmental assessments.</li> <li>(c) Effective date.</li> </ul>   |
| 798.         | Purpose and scope of preliminary permits; transfer and cancellation.   |
| 799.         | License; duration, conditions, revocation, alteration, or surrender.   |

Sec.		Sec.	
800.	Issuance of preliminary permits or licenses.		(a) Receipts from charges.
	(a) Preference.		(b) Delinquent payments.
	(b) Development of water resources by United States; reports.	811.	Operation of navigation facilities; rules and regulations; penalties.
	(c) Assumption of project by United States after expiration of license.	812.	Public-service licensee; regulations by State or by commission as to service, rates, charges, etc.
801.	Transfer of license; obligations of transferee.	813.	Power entering into interstate commerce; regulation of rates, charges, etc.
802.	Information to accompany application for license; landowner notification.	814.	Exercise by licensee of power of eminent domain.
803.	Conditions of license generally.	815.	Contract to furnish power extending beyond period of license; obligations of new licensee.
	(a) Modification of plans; factors considered to secure adaptability of project; recommendations for proposed terms and conditions.	816.	Preservation of rights vested prior to June 10, 1920.
	(b) Alterations in project works.	817.	Projects not affecting navigable waters; necessity for Federal license, permit or right-of-way; unauthorized activities.
	(c) Maintenance and repair of project works; liability of licensee for damages.	818.	Public lands included in project; reservation of lands from entry.
	(d) Amortization reserves.	819.	Repealed.
	(e) Annual charges payable by licensees; maximum rates; application; review and report to Congress.	820.	Proceedings for revocation of license or to prevent violations of license.
	(f) Reimbursement by licensee of other licensees, etc.	821.	State laws and water rights unaffected.
	(g) Conditions in discretion of commission.	822.	Reservation of right to alter or repeal chapter.
	(h) Monopolistic combinations; prevention or minimization of anti-competitive conduct; action by Commission regarding license and operation and maintenance of project.	823.	Repeal of inconsistent laws.
	(i) Waiver of conditions.	823a.	Conduit hydroelectric facilities.
	(j) Fish and wildlife protection, mitigation and enhancement; consideration of recommendations; findings.		(a) Exemption qualifications.
804.	Project works affecting navigable waters; requirements insertable in license.		(b) Maximum installation capacity for exemption.
805.	Participation by Government in costs of locks, etc.		(c) Consultation with Federal and State agencies.
806.	Time limit for construction of project works; extension of time; termination or revocation of licenses for delay.		(d) Violation of terms of exemption.
807.	Right of Government to take over project works.		(e) Fees for studies.
	(a) Compensation; condemnation by Federal or State Government.	823b.	Enforcement.
	(b) Relicensing proceedings; Federal agency recommendations of take over by Government; stay of orders for new licenses; termination of stay; notice to Congress.		(a) Monitoring and investigation.
808.	New licenses and renewals.		(b) Revocation orders.
	(a) Relicensing procedures; terms and conditions; issuance to applicant with proposal best adapted to serve public interest; factors considered.		(c) Civil penalty.
	(b) Notification of intention regarding renewal; public availability of documents; notice to public and Federal agencies; identification of Federal or Indian lands included; additional information required.		(d) Assessment.
	(c) Time of filing application; consultation and participation in studies with fish and wildlife agencies; notice to applicants; adjustment of time periods.	823c.	Alaska State jurisdiction over small hydroelectric projects.
	(d) Adequacy of transmission facilities; provision of services to successor by existing licensee; tariff; final order; modification, extension or termination of order.		(a) Discontinuance of regulation by the Commission.
	(e) License term on relicensing.		(b) Definition of "qualifying project works".
	(f) Nonpower use licenses; recordkeeping.		(c) Election of State licensing.
809.	Temporary use by Government of project works for national safety; compensation for use.		(d) Project works on Federal lands.
810.	Disposition of charges arising from licenses.		(e) Consultation with affected agencies.
			(f) Application of Federal laws.
			(g) Oversight by the Commission.
			(h) Resumption of Commission authority.
			(i) Determination by the Commission.
			(j) Fish and wildlife.
		823d.	Alternative conditions and prescriptions.
			(a) Alternative conditions.
			(b) Alternative prescriptions.
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		824.	Declaration of policy; application of subchapter.
			(a) Federal regulation of transmission and sale of electric energy.
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			(c) Electric energy in interstate commerce.
			(d) "Sale of electric energy at wholesale" defined.
			(e) "Public utility" defined.
			(f) United States, State, political subdivision of a State, or agency or instrumentality thereof exempt.
			(g) Books and records.
		824a.	Interconnection and coordination of facilities; emergencies; transmission to foreign countries.

Sec.		Sec.	
	(a) Regional districts; establishment; notice to State commissions.		(f) Review of automatic adjustment clauses and public utility practices; action by Commission; "automatic adjustment clause" defined.
	(b) Sale or exchange of energy; establishing physical connections.	824e.	Power of Commission to fix rates and charges; determination of cost of production or transmission.
	(c) Temporary connection and exchange of facilities during emergency.		(a) Unjust or preferential rates, etc.; statement of reasons for changes; hearing; specification of issues.
	(d) Temporary connection during emergency by persons without jurisdiction of Commission.		(b) Refund effective date; preferential proceedings; statement of reasons for delay; burden of proof; scope of refund order; refund orders in cases of dilatory behavior; interest.
	(e) Transmission of electric energy to foreign country.		(c) Refund considerations; shifting costs; reduction in revenues; "electric utility companies" and "registered holding company" defined.
	(f) Transmission or sale at wholesale of electric energy; regulation.		(d) Investigation of costs.
	(g) Continuance of service.		(e) Short-term sales.
824a-1.	Pooling.	824f.	Ordering furnishing of adequate service.
	(a) State laws.	824g.	Ascertainment of cost of property and depreciation.
	(b) Pooling study.		(a) Investigation of property costs.
824a-2.	Reliability.		(b) Request for inventory and cost statements.
	(a) Study.	824h.	References to State boards by Commission.
	(b) Examination of reliability issues by reliability councils.		(a) Composition of boards; force and effect of proceedings.
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824a-3.	Cogeneration and small power production.		(c) Availability of information and reports to State commissions; Commission experts.
	(a) Cogeneration and small power production rules.	824i.	Interconnection authority.
	(b) Rates for purchases by electric utilities.		(a) Powers of Commission; application by State regulatory authority.
	(c) Rates for sales by utilities.		(b) Notice, hearing and determination by Commission.
	(d) "Incremental cost of alternative electric energy" defined.		(c) Necessary findings.
	(e) Exemptions.		(d) Motion of Commission.
	(f) Implementation of rules for qualifying cogeneration and qualifying small power production facilities.		(e) Definitions.
	(g) Judicial review and enforcement.	824j.	Wheeling authority.
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	(i) Federal contracts.		(b) Reliability of electric service.
	(j) New dams and diversions.		(c) Replacement of electric energy.
	(k) "New dam or diversion" defined.		(d) Termination or modification of order; notice, hearing and findings of Commission; contents of order; inclusion in order of terms and conditions agreed upon by parties.
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	(b) Permit.		(d) Local distribution facilities.
	(c) Timely acquisition by other means.		(e) Exemption termination.
	(d) Payments by permittees.		(f) Application to unregulated transmitting utilities.
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824b.	Disposition of property; consolidations; purchase of securities.		(h) Other requests.
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824c.	Issuance of securities; assumption of liabilities.	824k.	Orders requiring interconnection or wheeling.
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	(b) Application approval or modification; supplemental orders.		(b) Repealed.
	(c) Compliance with order of Commission.		(c) Issuance of proposed order; agreement by parties to terms and conditions of order; approval by Commission; inclusion in final order; failure to agree.
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	(e) Notes or drafts maturing less than one year after issuance.		
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	(g) Guarantee or obligation on part of United States.		
	(h) Filing duplicate reports with the Securities and Exchange Commission.		
824d.	Rates and charges; schedules; suspension of new rates; automatic adjustment clauses.		
	(a) Just and reasonable rates.		
	(b) Preference or advantage unlawful.		
	(c) Schedules.		
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	(e) Suspension of new rates; hearings; five-month period.		

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	(e) Savings provisions.		(f) ERCOT utilities.
	(f) Effective date of order; hearing; notice; review.	824u.	Prohibition on filing false information.
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824l.	Information requirements.		(c) Powers.
	(a) Requests for wholesale transmission services.		(d) Report to the Congress.
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824m.	Sales by exempt wholesale generators.	825.	Accounts and records.
824n.	Repealed.		(a) Duty to keep.
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	(c) Certification.	825b.	Requirements applicable to agencies of United States.
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	(e) Enforcement.	825d.	Officials dealing in securities.
	(f) Changes in Electric Reliability Organization rules.		(a) Benefits; making or declaring dividends out of capital account.
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	(b) Construction permit.		(d) Testimony by deposition.
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824q.	Native load service obligation.		(b) Judicial review.
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	(d) Certain transmission rights.		(b) Writs of mandamus.
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	(f) Contracts.		(d) Prohibitions on violators.
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824r.	Protection of transmission contracts in the Pacific Northwest.		(a) Statutory violations.
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824t.	Electricity market transparency rules.	825r.	Separability.
	(a) In general.	825s.	Sale of electric power from reservoir projects; rate schedules; preference in sale; construction of transmission lines; disposition of moneys.
	(b) Exemption of information from disclosure.		
	(c) Information sharing.		
	(d) Exemption from reporting requirements.		
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825s-1. Southwestern area sale and transmission of electric power; disposition of receipts; creation of continuing fund; use of fund.  
825s-2. Southeastern area sale and transmission of electric power; disposition of receipts; creation of continuing fund; use of fund.  
825s-3. Southwestern area sale at uniform system-wide rates of electric power over transmission lines constructed with appropriated funds or used under contractual arrangements.  
825s-4. Southwestern Power Administration; deposit and availability of advance payments.  
825t. Utilization of power revenues.  
825u. Interest rate on power bonds held by Administrator of General Services.

#### SUBCHAPTER IV—STATE AND MUNICIPAL WATER CONSERVATION FACILITIES

828. Facilitation of development and construction of water conservation facilities; exemption from certain Federal requirements.  
828a. Definitions.  
828b. Exemption from formula, books and records, and project cost statement requirements; annual charges.  
828c. Applicability of this subchapter.

#### SUBCHAPTER I—REGULATION OF THE DEVELOPMENT OF WATER POWER AND RESOURCES

##### CODIFICATION

Section 212 of act of Aug. 26, 1935, ch. 687, 49 Stat. 847, provided that sections 1 to 29 of the Federal Water Power Act, as amended (sections 792, 793, 794 to 797, 798 to 818, 819, and 820 to 823 of this title) shall constitute part I of the act. Said section 212 also repealed sections 25 and 30 of the act (sections 819, 791 of this title). It also contained a proviso as follows: "That nothing in that Act, as amended, shall be construed to repeal or amend the provisions of the amendment to the Federal Water Power Act approved March 3, 1921 (41 Stat. 1353 [section 797a of this title]), or the provisions of any other Act relating to national parks and national monuments."

#### § 791. Repealed. Aug. 26, 1935, ch. 687, title II, § 212, 49 Stat. 847

Section, act June 10, 1920, ch. 285, § 30, 41 Stat. 1077, designated the act as The Federal Water Power Act.

##### § 791a. Short title

This chapter may be cited as the "Federal Power Act".

(June 10, 1920, ch. 285, pt. III, § 321, formerly § 320, as added Aug. 26, 1935, ch. 687, title II, § 213, 49 Stat. 863; renumbered Pub. L. 95-617, title II, § 212, Nov. 9, 1978, 92 Stat. 3148.)

##### CODIFICATION

Section was enacted as part of part III of the Federal Power Act, and not as part of part I of that Act which comprises this subchapter.

##### SHORT TITLE OF 1990 AMENDMENT

Pub. L. 101-575, § 1, Nov. 15, 1990, 104 Stat. 2834, provided that: "This Act [enacting section 2243 of Title 42, The Public Health and Welfare, amending sections 796 and 824a-3 of this title and sections 2014, 2061, 2201, and 2284 of Title 42, and enacting provisions set out as a note under section 796 of this title] may be cited as the 'Solar, Wind, Waste, and Geothermal Power Production Incentives Act of 1990'."

##### SHORT TITLE OF 1988 AMENDMENT

Pub. L. 100-473, § 1, Oct. 6, 1988, 102 Stat. 2299, provided that: "This Act [amending section 824e of this title and

enacting provisions set out as notes under section 824e of this title] may be cited as the 'Regulatory Fairness Act'."

##### SHORT TITLE OF 1986 AMENDMENT

Pub. L. 99-495, § 1(a), Oct. 16, 1986, 100 Stat. 1243, provided that: "This Act [enacting sections 797b and 823b of this title, amending sections 797, 800, 802, 803, 807, 808, 817, 823a, 824a-3, and 824j of this title, and enacting provisions set out as notes under sections 797, 803, 823a, 824a-3, and 825h of this title] may be cited as the 'Electric Consumers Protection Act of 1986'."

#### § 792. Federal Power Commission; creation; number; appointment; term; qualifications; vacancies; quorum; chairman; salary; place of holding sessions

A commission is created and established to be known as the Federal Power Commission (hereinafter referred to as the "commission") which shall be composed of five commissioners who shall be appointed by the President, by and with the advice and consent of the Senate, one of whom shall be designated by the President as chairman and shall be the principal executive officer of the commission. Each chairman, when so designated, shall act as such until the expiration of his term of office.

The commissioners first appointed under this section, as amended, shall continue in office for terms of one, two, three, four, and five years, respectively, from June 23, 1930, the term of each to be designated by the President at the time of nomination. Their successors shall be appointed each for a term of five years from the date of the expiration of the term for which his predecessor was appointed and until his successor is appointed and has qualified, except that he shall not so continue to serve beyond the expiration of the next session of Congress subsequent to the expiration of said fixed term of office, and except that any person appointed to fill a vacancy occurring prior to the expiration of the term for which his predecessor was appointed shall be appointed only for the unexpired term. Not more than three of the commissioners shall be appointed from the same political party. No person in the employ of or holding any official relation to any licensee or to any person, firm, association, or corporation engaged in the generation, transmission, distribution, or sale of power, or owning stock or bonds thereof, or who is in any manner pecuniarily interested therein, shall enter upon the duties of or hold the office of commissioners. Said commissioners shall not engage in any other business, vocation, or employment. No vacancy in the commission shall impair the right of the remaining commissioners to exercise all the powers of the commission. Three members of the commission shall constitute a quorum for the transaction of business, and the commission shall have an official seal of which judicial notice shall be taken. The commission shall annually elect a vice chairman to act in case of the absence or disability of the chairman or in case of a vacancy in the office of chairman.

Each commissioner shall receive necessary traveling and subsistence expenses, or per diem allowance in lieu thereof, within the limitation prescribed by law, while away from the seat of government upon official business.